

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:20-cv-00585

**John David Kolberg,**

*Petitioner,*

v.

**United States of America,**

*Respondent.*

**ORDER**


Petitioner John David Kolberg, an inmate at Gregg County Jail proceeding pro se, filed this civil action against the United States. Doc. 1. This lawsuit was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b). Doc. 5.

On November 21, 2020, Judge Love entered a report recommending that this case be dismissed without prejudice for failure to state a claim upon which relief may be granted. Doc. 8. Judge Love further recommended that this dismissal be without prejudice with respect to petitioner's "right to pursue his claims for time credit through any lawful means, including but not limited to state administrative proceedings, state habeas corpus or other proceedings in the state courts, or his currently pending federal habeas corpus proceeding." *Id.* at 4. Petitioner did not file any objections to the magistrate judge's report.

When there have been no timely objections to a magistrate judge's report and recommendation, the record is only reviewed for clear error. *Douglass v. United Servs. Auto. Ass'n.*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court **accepts** its findings and recommendations. The above-styled civil action is **dismissed without prejudice** for failure to state a claim upon which relief may be

granted. This dismissal is without prejudice with respect to petitioner's right to pursue his claims for time credit through other lawful means.

*So ordered by the court on January 25, 2021.*

  
\_\_\_\_\_  
J. CAMPBELL BARKER  
United States District Judge